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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,441	10/16/2000	Bayard S. Webb	0112300/141	1896

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EXAMINER

ASHBURN, STEVEN L

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 07/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/688,441

Applicant(s)

WEBB ET AL.

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-33 is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____


MARK SAGER
PRIMARY EXAMINER

DETAILED ACTION

Drawings

Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office Action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "in each round" in lines 9-10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Walker* in view of *Watts*, U.S. Patent 5,775,692 (Jul. 7, 1998).

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In regards to claims 1-17 and 22, the gaming device disclosed by *Walker* clearly describes the features of the claimed subject matter except a game having a plurality of rounds (*Claims 1, 13*). *See fig. 1, 6, 7; col. 7:1-8:3*. Regardless of *Walker's* deficiency, the feature was known in the art at the time of the invention and would have been obvious to an artisan in view of *Watts*.

Watts discloses a gaming device with multiple rounds. *See col. 1:1-58*. The reference suggests increasing the number of rounds allows a gaming device to offer a larger payouts by effectively increasing the number of possible outcomes in order to enhance the attraction of players to the device. *See id.* Thus, in view of *Watts* it would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Walker* to add the feature of a plurality of rounds to offer a larger payout and thereby enhance players' attraction the device and increase operator revenue accordingly.

In regards to claims 18 and 19, the multi-round gaming device suggested by the combination of *Walker* with *Watts* describes all the features of the instant claims except associating each table with a different percentage in a round. Regardless of the deficiency, the feature would have been obvious to an artisan at the time of the invention.

Walker discloses a gaming device wherein a plurality of tables is used to select a plurality of numbers of player selections, each selected number belonging to a table of numbers. *Watts* suggests implementing a game in multiple rounds to enable a gaming device to offer larger awards by effectively increasing the number of outcomes and thereby reducing the probability of a large payout outcome. *See col. 1:1-58*. Furthermore, it suggests associating an independent random outcome selector with each round. *See col. 1:2-32*. It would have been obvious to an artisan at the time of the invention to modify the combination of *Walker* and *Watts*, as applied to the claims above, to associate tables defining different percentages of symbols in each round in order to control the total expected payout multi-round gaming device. The modification would enable variations in the expected payout for each round and thereby

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allow the game's total expected payout to be varied such that devices to pay large awards while ensuring sufficient profit for the operator.

In regards to claims 20 and 21, the multi-round gaming device suggested by the combination of *Walker* with *Watts* describes all the features of the instant claims. The instant claims describe selecting the number of selections wherein the number of selections is associated with the percentage of symbols in a round. *Walker* calculates the probability of a player receiving a winning outcome by determining the association between the number of selections and the number of winning symbols. Hence, *Walker* suggests associating the selections wherein the number of selections is associated with the percentage of symbols in a round. In multi-round gaming device suggested by the combination of *Walker* with *Watts*, it would have been obvious to an artisan at the time of the invention to select the number of selections such that the number of selections is associated with the percentage of symbols in a round to control the expected payout of gaming device and thereby ensure sufficient profit for the operator.

In regards to claim 23, the multi-round gaming device suggested by the combination of *Walker* with *Watts* describes all the features of the instant claims except revealing that all symbols having an assigned item indeed have an assigned item. Regardless of the deficiency, the feature was known in the art at the time of the invention and would have been obvious to an artisan.

It is notoriously well known in the art to reveal unselected selections from a set of hidden selections to demonstrate that a selection associated with an item actually existed. Revealing unselected items assures players that the game is not a scam such as a shell game or three-card-monty wherein there is actually no winning outcome. Furthermore, revealing unselected items serves to entice players by satisfying their curiosity in forgone possibilities. Thus, in multi-round gaming device suggested by the combination of *Walker* with *Watts*, wherein players attempt to select items hidden behind a plurality of

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symbols, it would have been obvious to an artisan at the time of the invention to reveal that all symbols having an assigned item indeed have and assigned item to demonstrate the game is not a scam and entice players into further attempts by revealing the forgone selections. The modification would enhance the gaming device by increasing players' feelings of fairness and excitement and thereby increase operator revenue.

Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Walker* in view of in view of *Mayeroff*, U.S. Patent 6,231,442 B1 (May 15, 2001).

The gaming device disclosed by *Walker* describes the features of the claimed subject matter except selecting a number of player selections (*claim 24*) and revealing that all symbols having an assigned item indeed have and assigned item (*claim 28*). Regardless of the deficiencies, the features were known in the art at the time of the invention and would have been obvious to an artisan in view of *Mayeroff*.

In regards to claims 24-27, *Mayeroff* discloses an analogous gaming device wherein the game provides the step of selecting a number of player selections. *See col. 3:36-56, 4:1-19, 7:47-56*. In view of *Mayeroff*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Walker*, wherein a player is provided a predetermined number of selections, to add the feature of selecting a number of player selections to enhance the entertainment of the gaming device by a increasing players' involvement in the selection process. As suggested by *Walker*, players are attracted to gaming devices in which they feel a greater sense in involvement in the game's outcome. *See col. 1:56-2:50*. Thus operators' revenue would be increased by allowing players to participate in selecting the number of player selections.

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In regards to claim 28, the multi-round gaming device suggested by the combination of *Walker* with *Mayeroff* describes all the features of the instant claims except revealing that all symbols having an assigned item indeed have and assigned item. Regardless of the deficiencies, the features were known in the art at the time of the invention and would have been obvious to an artisan.

It is notoriously well known in the art to reveal unselected selections from a set of hidden selections to demonstrate that a selection associated with an item actually existed. Revealing unselected items serves to assure players that the game is not a scam similar to a shell game or three-card-monty wherein there are no winning outcomes. Furthermore, revealing unselected items serves to entice players by satisfying their curiosity in forgone possibilities. Thus, in multi-round gaming device suggested by the combination of *Walker* with *Watts*, wherein players attempt to select items hidden behind a plurality of symbols, it would have been obvious to an artisan at the time of the invention to reveal that all symbols having an assigned item indeed have and assigned item to demonstrate the game is not a scam and entice players into further attempts by revealing the forgone selections. The modification would enhance the gaming device by increasing players' feelings of fairness and excitement and thereby increase operator revenue.

Allowable Subject Matter

Claims 29-33 are allowed. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not teach or suggest a method for operating a gaming device wherein (i) a first number of player selections is selected corresponding first group of symbols; (ii) a second number of player selections is selected corresponding a second group of symbols; (iii) the first number and second number of player selections are added; and (iv) a player is enabled to select a number of selections equal to the sum.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703 308 4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9302 for regular communications and 703 872 9303 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1078.



Steven Ashburn
July 12, 2002



MARK SAGER
PRIMARY EXAMINER